IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3531 OF 2006

Smt. Charusheela Bajirao Patil ....Petitioner.

V/s

1. The State of Maharashtra & Ors. ....Respondents.

Shri A. R. Shaikh for the Petitioner.

Shri C.R. Sonawane, AGP for the respondent Nos. 1 and 2.

CORAM: R.M.S. KHANDEPARKAR &
V. M. KANADE, JJ.

DATE : 27th September, 2006

P.C.:

1. Heard.

2. Rule. By consent, rule is made returnable forthwith.

3. Petitioner challenges the order dated 31/03/2004 on various grounds. However, it is not necessary to consider all those grounds and suffice to refer to only one ground, namely, that the impugned order is a non-speaking order.

4. Petitioner is stated to have in employment of respondent No.2 since 2000 and her appointment was approved as Assistant Teacher on temporary basis on 13/02/2001. Further, she was granted approval as a probationer in S.S.C. D.Ed Pay Scale on 31/03/2001 and, subsequently, the petitioner was confirmed as a permanent employee. The Management forwarded the proposal for permanent approval to the Project Officer on 11/06/2002 which was declined on 03/02/2003. Petitioner filed Writ Petition No. 235 of 2005 which was withdrawn with liberty to file a fresh Petition on 09/09/2005. Thereupon the present Petition came to be filed.

5. The impugned order states that the proposal has been rejected on the ground that “Proper procedure is not followed. Not having eligible qualification.” Undisputedly, apart from these two remarks, the impugned order nowhere discloses either discussion or any reasoning to arrive at the said observation quoted above.

6. Since the matter was pertaining to proposal for grant of approval to the Petitioner as a permanent employee on the basis of the facts disclosed in the proposal, it was necessary for the concerned authority to take into consideration those facts and on analysis thereof to ascertain whether there was a case made out for grant of approval or not. Merely observing that proper procedure is not followed or the Petitioner is not having eligible qualification does not amount to considering the matter in the manner it was required to be considered by the concerned authority and more particularly when the Petitioner is having S.S.C. D. Ed. qualification. It is also not reflected from the record that the petitioner was sought to be recruited without following procedure which is otherwise required to be followed for the purpose of recruitment to the post of Assistant Teacher. In these circumstances, Petitioner is justified in contending that the impugned order is a non-speaking order and on that count itself the impugned order is liable to be set aside and the matter be remanded back to the concerned authority to consider the proposal for approval of the Petitioner as a permanent employee in accordance with the provisions of

law and bearing in mind the observations made hereinabove.

7. In the result, therefore, Petition succeeds on the above limited ground. The authority to consider the proposal in accordance with the provisions of law and bearing in mind the observation made hereinabove. It is made clear that this court has not expressed any opinion on the merits of the case and all the issues in that regard are kept open for consideration by the concerned authority. The authority to make appropriate decision on the proposal within three months. Petitioner may appear before the concerned authority on 16/10/2006 for further proceedings.

8. Rule is made absolute accordingly with no order as to costs.

(R.M.S. KHANDEPARKAR, J.)

(V. M. KANADE, J.)